

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of D.M., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
_____	)	Case No. 20040329-CA
	)	
D.M.,	)	
	)	F I L E D
Appellant,	)	(October 6, 2005)
	)	
v.	)	2005 UT App 420
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Eighth District Juvenile, Duchesne Department, 894730  
The Honorable Scott N. Johansen

Attorneys: Julie George, Salt Lake City, for Appellant  
Mark L. Shurtleff and J. Frederic Voros Jr., Salt  
Lake City, for Appellee

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Before Judges Billings, Davis, and Greenwood.

DAVIS, Judge:

D.M. appeals the detention ordered by the juvenile court pursuant to his admission to one count of disorderly conduct under Utah Code section 76-9-102 (2003). We affirm.

D.M. first claims the juvenile court did not have personal jurisdiction over him because the summons was not properly served. D.M. moved below to dismiss the petition, and after the court denied his motion, he admitted to one count of disorderly conduct. Unless the defendant enters a conditional guilty plea, "[t]he general rule applicable in criminal proceedings . . . is that by pleading guilty, the defendant is deemed to have admitted all of the essential elements of the crime charged and thereby waives all nonjurisdictional defects." State v. Parsons, 781 P.2d 1275, 1278 (Utah 1989); see also Bentley v. West Valley City, 2001 UT 23, ¶4, 21 P.3d 210. Those jurisdictional defects refer to subject matter jurisdiction, which cannot be waived and may be asserted at any time. See Myers v. State, 2004 UT 31, ¶16, 94 P.3d 211. However, they do not include personal jurisdiction, see Barnard v. Wassermann, 855 P.2d 243, 248 (Utah 1993) (noting that in the context of waiver, "[m]any cases refer to

jurisdiction generally, but a close reading of those cases suggests that they actually involve subject matter jurisdiction rather than personal jurisdiction" (internal citation omitted)), which a defendant may waive expressly or by implication when he participates in the proceedings, see Phone Directories Co. v. Henderson, 2000 UT 64, ¶15, 8 P.3d 256 ("[P]eople are free to waive the requirement that a court must have personal jurisdiction over them before that court can adjudicate a case involving them."); 21 Am. Jur. 2d Criminal Law § 482 (1998) (noting that pleading guilty and proceeding to trial waives objections to personal jurisdiction). Here, D.M. made an appearance in which he admitted unconditionally to the essential elements of the petition and, thereby, waived his right to further contest lack of personal jurisdiction.

Second, D.M. argues that the juvenile court improperly imposed a thirty-day suspended jail sentence for an infraction. D.M. did not preserve this issue below, but now claims the trial court committed plain error in ordering the sentence. While true that the crime of disorderly conduct in this case constitutes an infraction, see Utah Code Ann. § 76-9-102, and that an infraction generally cannot be punished by imprisonment, see id. § 76-3-205 (2003), the Juvenile Court Act grants a juvenile court power to order detention or "an alternative to detention" for up to thirty days for "an act which if committed by an adult would be a criminal offense," id. § 78-3a-118(f) (2002). Disorderly conduct is an act that, if committed by an adult, would be defined as an offense. See id. § 76-9-102 (categorizing disorderly conduct under the chapter heading "Offenses against Public Order and Decency"). While recognizing that the statutory scheme may appear inconsistent, it is unambiguous, and we must give effect to its plain language. See Wagner v. Utah Dep't of Human Servs., 2005 UT 54, ¶10, 533 Utah Adv. Rep. 23.

The juvenile court's order is affirmed.

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James Z. Davis, Judge

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WE CONCUR:

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Judith M. Billings,  
Presiding Judge

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Pamela T. Greenwood, Judge